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By: **Delegates Conroy, Conway, Jones, and Love**  
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Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources - Waterway Improvement Trust Fund**

3 FOR the purpose of renaming the Waterway Improvement Fund to be the Waterway  
4 Improvement Trust Fund; expanding the authorized uses of the Waterway  
5 Improvement Trust Fund; authorizing the Department of Natural Resources to  
6 administer the Waterway Improvement Trust Fund to provide certain grants to  
7 certain persons for certain mitigation of environmental hazards; authorizing the  
8 use of bond proceeds for certain purposes related to the issuance of bonds;  
9 prohibiting the Department from using more than a certain percentage of  
10 moneys in the Waterway Improvement Trust Fund for certain administrative  
11 expenses; making stylistic changes; requiring the publisher of the Annotated  
12 Code of Maryland, in consultation with the Department of Legislative Services,  
13 to correct terminology in the Code to conform with the changes made by this Act;  
14 and generally relating to the Waterway Improvement Trust Fund.

15 BY repealing and reenacting, with amendments,  
16 Article - Natural Resources  
17 Section 8-706, 8-707, 8-708, and 8-709  
18 Annotated Code of Maryland  
19 (2000 Replacement Volume and 2002 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Natural Resources**

23 8-706.

24 (A) The Department shall carry out the administrative duties concerning the  
25 waterways improvement districts. In addition, the Department shall:

26 (1) Review proposals and petitions to establish waterways improvement  
27 districts and report to the governing body on each proposed district as provided in §  
28 8-705 of this subtitle;

1 (2) Provide engineering design for waterways projects and supervise or  
2 provide supervision for these projects;

3 (3) Clear debris, aquatic vegetation, and obstructions from waters of the  
4 State;

5 (4) Provide liaison with the United States Army Corps of Engineers on  
6 projects under § 107 of the Rivers and Harbors Act;

7 (5) Prepare requests for appropriation of funds necessary to pay the  
8 State's share of the cost of projects;

9 (6) Administer the Waterway Improvement TRUST Fund to provide  
10 interest-free loans to any governing body for a waterway improvement project as  
11 provided in § 8-708(d) of this subtitle; and

12 (7) Administer the Waterway Improvement TRUST Fund to provide  
13 interest-free loans to a governing body for the benefit of a residential property owner,  
14 or group of residential property owners, with land abutting a channel adjacent to a  
15 main channel or harbor for dredging the adjacent channel as provided in § 8-708.1 of  
16 this subtitle.

17 (B) THE DEPARTMENT MAY ADMINISTER THE WATERWAY IMPROVEMENT  
18 TRUST FUND TO PROVIDE GRANTS TO THE OPERATORS OF PRIVATE MARINAS,  
19 BUSINESSES RELATED TO THE OPERATIONS OF A PRIVATE MARINA, AND  
20 COMMERCIAL BOAT BROKERS FOR THE MITIGATION, CONTAINMENT, AND  
21 ABATEMENT OF ENVIRONMENTAL HAZARDS, AS PROVIDED IN § 8-707(A)(12) OF THIS  
22 SUBTITLE.

23 8-707.

24 (a) There is a Waterway Improvement TRUST Fund for the purposes specified  
25 in this subtitle. Except as provided in § 8-709 of this subtitle, any money received into  
26 the Waterway Improvement TRUST Fund shall be used solely for the following  
27 projects:

28 (1) Marking channels and harbors and establishing aids to navigation in  
29 cooperation with and as an extension of operations of the United States Coast Guard;

30 (2) Clearing debris, aquatic vegetation, and obstruction from waters of  
31 the State;

32 (3) Dredging channels and harbors and construction of jetties and  
33 breakwaters in cooperation with and as an extension of operations of the United  
34 States Army Corps of Engineers;

35 (4) Constructing and maintaining marine facilities beneficial to the  
36 boating public, including constructing pump-out stations for use by the general  
37 boating public at public and private marinas. The Secretary may use the funds to  
38 install pump-out stations for use by the general boating public and to supplement

1 maintenance costs at the discretion of the Secretary. Before approving the  
2 construction of any pump-out station at a public or private marina, the Secretary  
3 shall consult with the Department of the Environment to assure that the wastewater  
4 collection and treatment system of the marina is adequate to handle any increased  
5 flow. The Department may adopt regulations to govern the use and operation of  
6 pump-out stations for use by the general boating public constructed or supported by  
7 State funds under this section;

8           (5)       Improvement, reconstruction, or removal of bridges, drawbridges, or  
9 similar structures over or across waters, if those structures delay, impede, or obstruct  
10 the boating public. With the approval of the Board of Public Works, funds from  
11 another public or any private source may be received and used to supplement and  
12 increase the funds in the Waterway Improvement TRUST Fund for the purpose of this  
13 subsection. Also, the Board of Public Works may enter into an agreement with a  
14 private company or person which owns such a structure, for the improvement,  
15 reconstruction, or removal of the structure, in order to provide a sharing of the cost of  
16 the improvement, reconstruction, or removal;

17           (6)       Evaluation of water-oriented recreation needs and recreational  
18 capacities of Maryland waterways and development of comprehensive plans for  
19 waterway improvements;

20           (7)       To provide matching grants to local governments for the construction  
21 of marine facilities for marine firefighting, marine police, or medical services and for  
22 the acquisition of vessels and equipment for vessels for marine firefighting, police,  
23 medical, and communication equipment for promoting safety of life and property and  
24 general service to the boating public utilizing the waters of the State. The ownership,  
25 operation, and maintenance of any equipment acquired under this subtitle shall be  
26 the responsibility of the local governing body;

27           (8)       Structural and nonstructural shore erosion control under subsection  
28 (b) of this section;

29           (9)       Acquisition of equipment and State vessels for firefighting, policing,  
30 first aid and medical assistance, and communications, in order to promote safety of  
31 life and property and general service to the boating public utilizing waters of the  
32 State;

33           (10)      Boating information and education; [and]

34           (11)      To provide interest-free loans to a governing body for the benefit of a  
35 residential property owner, or group of residential property owners, with land  
36 abutting a channel adjacent to a federal, State, county, or municipal main channel or  
37 harbor for dredging the adjacent channel; AND

38           (12)      TO PROVIDE GRANTS TO THE OPERATORS OF A PRIVATE MARINA,  
39 BUSINESSES RELATED TO THE OPERATIONS OF A PRIVATE MARINA, AND  
40 COMMERCIAL BOAT BROKERS FOR THE MITIGATION, CONTAINMENT, AND  
41 ABATEMENT OF ENVIRONMENTAL HAZARDS.

1 (b) Moneys from the Waterway Improvement TRUST Fund may be  
2 appropriated for structural and nonstructural shore erosion control projects under  
3 Subtitle 10 of this title, provided that the funds appropriated:

4 (1) In any fiscal year do not exceed 15% of the total excise tax revenues,  
5 exclusive of loan repayments, attained by the Waterway Improvement TRUST Fund in  
6 the preceding fiscal year; and

7 (2) May only be expended for projects that address shoreline areas  
8 where:

9 (i) Significant erosion is being caused by a combination of boat  
10 traffic and other factors, including:

11 1. An exposed point of land or shore in a narrow creek or  
12 cove;

13 2. Shore composition of easily erodible soils;

14 3. A steep, seaward, near-shore slope; or

15 4. A high rate of boating traffic passing close to the shore;

16 (ii) The shoreline has the following characteristics:

17 1. Evidence of erosion is clearly visible; and

18 2. Proximity to navigable waters where dredging  
19 responsibility is not clearly accepted by the federal government; or

20 (iii) Erosion has been significantly increased due to the construction  
21 or replacement of public waterway improvement structures.

22 (c) (1) Funds specified under subsection (b) of this section may be  
23 appropriated in a lump sum for the general purpose of shore erosion control, without  
24 specifying individual projects pursuant to § 8-709(a) of this subtitle.

25 (2) By January 1 of each year, the Department shall issue a written  
26 report to the Senate Budget and Taxation Committee and the House Appropriations  
27 Committee that shall contain for each grant or loan made under subsection (b) of this  
28 section:

29 (i) The amount of each grant or loan;

30 (ii) The name and address of each recipient;

31 (iii) The location of the property for which the grant or loan was  
32 made; and

33 (iv) If the recipient is a corporation, the name of each officer of the  
34 corporation.

1 8-708.

2 (a) Except as provided in § 8-708.1 of this subtitle, projects for dredging and  
3 marking channels and harbors, construction of jetties and breakwaters, and clearing  
4 debris, aquatic vegetation, and obstructions in navigable waters, as well as  
5 construction of marine facilities located within lands owned by the Department and  
6 construction of pump-out stations for use by the general boating public at public and  
7 private marinas, shall be financed solely by the Waterway Improvement TRUST Fund.  
8 Any funds available from the federal government, any governing body, or any gift also  
9 may be used for these purposes.

10 (b) Except for the construction of pump-out stations for use by the general  
11 boating public at public and private marinas, the governing body and the Waterway  
12 Improvement TRUST Fund jointly shall finance projects to construct marine facilities  
13 beneficial to the boating public. The contribution of the Waterway Improvement  
14 TRUST Fund shall be limited to not more than 50% of the cost of each project.  
15 However, the Waterway Improvement TRUST Fund may finance completely any  
16 construction project beneficial to the boating public which costs less than \$100,000  
17 regardless of its location.

18 (c) (1) The governing body shall pay its share of matching projects under  
19 subsection (b) of this section or shall repay the Waterway Improvement TRUST Fund  
20 for any loan authorized under subsection (d) of this section either by:

21 (i) Means of appropriations from general funds; or

22 (ii) Levying a special assessment or tax against each property  
23 owner whose property lies within the district.

24 (2) The governing body may accept and use any gift for the cost of any  
25 project as part of the governing body's share of any matching fund project.

26 (d) In addition to the methods of financing provided in subsections (a) and (b)  
27 of this section, a governing body may borrow interest-free funds from the Waterway  
28 Improvement TRUST Fund for a waterway improvement project within a waterway  
29 improvement district. However, the amount borrowed from the Waterway  
30 Improvement TRUST Fund for these districts may not exceed 21% of the total attained  
31 revenue of the Waterway Improvement TRUST Fund from the previous fiscal year. A  
32 single project may not exceed 7% of the total attainment. The governing body shall  
33 repay the funds at a uniform rate over a period not to exceed 25 years as provided by  
34 agreement between the State and the governing body.

35 (e) The contribution of the Waterway Improvement TRUST Fund shall be  
36 limited to not more than 50% of the cost of each acquisition, and the total amount of  
37 funds expended in any fiscal year for acquisitions and projects specified in § 8-707(7)  
38 and (9) of this subtitle may not exceed the amount of the motor fuel tax revenue paid  
39 to the Waterway Improvement TRUST Fund in the preceding fiscal year, as provided  
40 for in § 2-1004 of the Tax - General Article.

41 (f) Notwithstanding any other provision of this subtitle[, funds]:

1 (1) FUNDS deposited in the Waterway Improvement TRUST Fund may be  
2 used for amortization and payment of interest on bonds issued for financing projects  
3 authorized under this subtitle; AND

4 (2) PROCEEDS OF BONDS ISSUED UNDER THIS SUBTITLE MAY BE USED  
5 FOR THE EXPENSES OF ISSUING, SELLING, AND DELIVERING THE BONDS.

6 8-709.

7 (a) The Department shall include in its annual budget request an itemized list  
8 of requests for the use of any available money from the Waterway Improvement  
9 TRUST Fund for the projects under § 8-707 of this subtitle. The Department's list  
10 shall include a brief description of each project, an estimate of its cost, and the  
11 benefits to be derived from it. The list shall designate which projects are financed  
12 solely by the Waterway Improvement TRUST Fund, which are matching fund projects,  
13 and which are interest-free loan projects.

14 (b) Notwithstanding the provisions of subsection (a) of this section, in any  
15 fiscal year the Department may expend from the Waterway Improvement TRUST  
16 Fund without legislative approval a total sum of not more than \$225,000. Of this  
17 amount, a sum of not more than \$125,000 may be expended for small projects under  
18 § 8-707(3) and (4) of this subtitle, subject to the limitation that a single project of this  
19 kind may not exceed \$5,000 in cost to the Waterway Improvement TRUST Fund, and a  
20 sum of not more than \$100,000 may be expended for boating safety and education.

21 (c) Notwithstanding the provisions of subsection (a) of this section, the  
22 Department may propose in its annual budget, beginning with the fiscal year 1994  
23 budget, an appropriation of not more than \$1,000,000 from the Waterway  
24 Improvement TRUST Fund to support marine operations in the Natural Resources  
25 Police.

26 (d) Notwithstanding the provisions of subsection (a) of this section, for each of  
27 fiscal years 2003 and 2004, as provided in the State budget, the Department may use  
28 up to 50% of the moneys in the Waterway Improvement TRUST Fund for  
29 administrative expenses directly relating to implementing the purposes of the  
30 Waterway Improvement TRUST Fund.

31 (E) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (A), (B), AND (C) OF  
32 THIS SECTION, BEGINNING IN FISCAL YEAR 2005, AS PROVIDED IN THE STATE  
33 BUDGET, THE DEPARTMENT MAY NOT USE MORE THAN 10% OF THE MONEYS IN THE  
34 WATERWAY IMPROVEMENT TRUST FUND FOR THE GENERAL ADMINISTRATIVE  
35 EXPENSES OF THE DEPARTMENT.

36 SECTION 2. AND BE IT FURTHER ENACTED, That the publisher of the  
37 Annotated Code of Maryland, in consultation with and subject to the approval of the  
38 Department of Legislative Services, shall correct, with no further action required by  
39 the General Assembly, cross references and terminology rendered incorrect by this  
40 Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2003.